

MACOMB TOWNSHIP ZONING BOARD OF APPEALS
MINUTES OF A SPECIAL MEETING HELD ON
NOVEMBER 29, 2005

LOCATION: MACOMB TOWNSHIP MEETING CHAMBERS
54111 BROUGHTON ROAD, MACOMB, MI 48042

PRESENT: CHAIRMAN, BRIAN FLORENCE
MEMBERS: EDWARD GALLAGHER
TONY POPOVSKI
VICTORIA SELVA
DAWN SLOSSON

ABSENT: NONE

ALSO PRESENT: COLLEEN O'CONNOR, TOWNSHIP ATTORNEY
JERRY SCHMEISER, PLANNING CONSULTANT
(Additional attendance record on file with Clerk)

Call Meeting to Order.

Chairman FLORENCE called the meeting to order at 7:01 P.M.

1. Roll Call.

Secretary SLOSSON called the Roll Call. All members present.

2. PLEDGE OF ALLEGIANCE.

3. Approval of Agenda Items. *(with any corrections)*
Note: All fees have been received and all property owners were notified by mail

MOTION by GALLAGHER seconded by SLOSSON to approve the agenda as presented.

MOTION carried.

4. Approval of the previous meeting minutes:

MOTION by SELVA seconded by POPOVSKI to approve the meeting minutes of November 8, 2005 as presented.

MOTION carried.

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PURPOSE OF HEARING:

To consider the requests for variance(s) of Zoning Ordinance No. 10 for the following:

Agenda Number/Petitioner/ Permanent Parcel No.	Zoning Ordinance Section No.
(5) USA Credit Union Permanent Parcel No. 08-20-200-046	Section 10.1605(I)(6)(c)
(6) Sound Building Company Permanent Parcel No. 08-29-226-022	Section 10.0319(C)(3)
(7) Sound Building Company Permanent Parcel No. 08-29-233-008	Section 10.0314(C)

5. VARIANCE FROM THE PROVISION OF THE ZONING ORDINANCE;
Permission to vary section: 10.1605I-6-c. to increase the maximum square footage permitted for a wall sign in a C-2 district.
Located on Southeast corner of 23 Mile and Romeo Plank Road, in the Romeo Plank Crossing Center; Section 20; USA Credit Union, Petitioner. Permanent Parcel No. 08-20-200-046.

Chairman FLORENCE read the findings and recommendations of November 23, 2005. They are as follows:

The petitioner is requesting permission to increase the maximum square footage permitted for a wall sign in a C-2 district. A Certificate of Zoning Compliance and wall sign have been approved for the USA Credit Union. The petitioner is seeking the variance in order that the company logo may be completed by inserting an orange arc above and below the words "USA" in the sign.

The arc in question measures 1.56" wide with a cord length of 48.75" and further would extend 18" above and below the primary lettering "USA", thus allowing for by the ordinance an additional 7.1 square feet to the size of the sign providing for a sign with a total square footage of 35.8 square feet or 3.8 square feet greater than allowed by the ordinance.

The circular tubing would be internally illuminated with neon. Further, there would be no backing in the open space within the arcs.

The sign ordinance defines sign area as "the entire area within a continuous perimeter enclosing the extreme limits of the sign display, including any frame or border curved, spherical, or any other shaped sign face shall be computed on the basis of actual surface area". In the issue before the Board, although the area of the tubing comprises less than 1.5 square feet and would, if added separately to the balance of the sign, keep the sign within the

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limits of the ordinance. A strict interpretation of the above language would require the areas within both arcs above and below the lettering to be computed in determining maximum sign area.

RECOMMENDATION:

It is recommended that the variance request be approved since the use of internally illuminated tubing in the shapes described in the above findings do not cause the sign to appear in fact or in perception greater than the limits to be erected. In other words, the area above and below the primary message line are not used in any way (by way of lighting, special backing or the use of any other forms of message to increase the actual and readable area of the proposed sign). Further, as noted in the findings, when taken separately, the addition of the area for the tubing and the area of the balance of the sign remain under the maximum allowable sign area. This recommendation should be conditioned upon the following:

1. That the tubing in question shall be internally lit and remain lit in the non-blinking state.
2. The tubing shall be connected to the wall with a separate raceway leaving the area between the primary sign and the tubing open to expose the full wall of the existing building.
3. That no other manner of lighting or other materials be permitted in the open areas between the tubing and the the primary message area "USA Credit Union".

Darren Cameron, petitioner, was in attendance and stated the request was being made to bring the sign that is currently at this site into conformance with the other existing branches.

Public Portion: None.

MOTION by SLOSSON seconded by SELVA to close the public portion.
MOTION carried.

The following resolution was offered by GALLAGHER and seconded by SELVA:

Whereas, it has been satisfactorily presented that special conditions prevail that would cause an unnecessary hardship if the request would be denied and that conditions exist that are unique to the property and the granting of the request would not confer special privileges for the petitioner that would be denied other similar properties, that the variance request would be consistent with the spirit and intent of the Macomb Township Zoning Ordinance No. 10 under the findings and facts herein set forth;

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Now, therefore, be it resolved that pursuant to the action of the Board to grant the requested variance of Section 10.1605(I)(6)(c)-Request to exceed the maximum square footage of 32 square feet for a wall sign; Located on the southeast corner of 23 Mile Road and Romeo Plank Road; Section 20; USA Credit Union, Petitioner. Permanent Parcel No. 08-20-200-046. The granting of the variance was conditioned upon the following three standards:

1. That the tubing in question shall be internally lit and remain lit in the non-blinking state.
3. The tubing shall be connected to the wall with a separate raceway leaving the area between the primary sign and the tubing open to expose the full wall of the existing building.
3. That no other manner of lighting or other materials be permitted in the open areas between the tubing and the the primary message area "USA Credit Union".

MOTION carried.

6. VARIANCE FROM THE PROVISION OF THE ZONING ORDINANCE;
Permission to vary section: 10.0319(C)(3)-Request permission to erect an off-site sign.
Located on south side of 22 Mile Road, west of Romeo Plank Road; Section 29;
Sound Building Company, Petitioner. Permanent Parcel No. 08-29-226-021.

Chairman FLORENCE read the findings and recommendations of November 23, 2005 as follows:

The petitioner is requesting permission to install an offsite sign measuring 4' x 8' on a parcel fronting on Romeo Plank Road.

The sign will advertise lots in Turnberry Pointe Subdivision.

Off-site signs are allowed in industrial districts based on receipt of special land use permit.

RECOMMENDATION:

It is recommended that the variance request be denied for the following conditions:

1. Compliance with the strict letter of the offsite sign requirement would not unreasonably prevent the ownership from using the property as zoned. Other residential subdivisions planned in Macomb Township will be required to comply with the same offsite sign requirements which are evidence that the proper signage would not be unnecessarily burdensome.

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2. The granting of a variance as requested would give to the applicant an advantage or benefit not received by any other residential subdivision developments in Macomb Township. The other owners are or will be required to comply with the signage requirement. As a result the other property owners do not have the opportunity to make use of offsite signs.

There is nothing unusual about the parcel in question that sets it apart from other parcels in area or in Macomb Township. There is nothing to prevent signage that meets the zoning ordinance. For example, there are no significant grade differences or natural feature such as a stream or wetland to prevent full use of the parcel according to the ordinance as written.

Franco Mancini, petitioner, was in attendance and stated that there was merit to the request being made. The subdivision seeking the offsite signage is a separate subdivision which does not have frontage on a major road such as Turnberry Subdivision which is the entrance to be used for Turnberry Pointe Subdivision. Lastly, the request being sought could not be done without a variance since there was already an existing sign.

Al Gross, sales representative, stated they needed this sign along with directional arrow signs to guide them to Turnberry Pointe.

Public Portion:

Jacki Orsini, 48595 Stonefield, stated that at the time Turnberry Pointe Subdivision received approval that a construction road was to be provided. Furthermore, the directional arrow signs that were mentioned and would be placed throughout Turnberry Subdivision are against their deed restrictions.

Mike Jacob, 18340 Cheryl Drive, expressed his concern and fellow residents in the subdivision about having a separate construction entrance were the traffic would not have to travel through an existing residential subdivision. In addition there are several students who stand at the intersection of Turnberry and Romeo Plank Road waiting for the school bus and at the same time trucks are also entering the subdivision with loads of lumber, which could be hazardous. Lastly, placing a 4 x 8 sign along Romeo Plank Road will cause an obstruction to vision.

MOTION by GALLAGHER seconded by POPOVSKI to close the public portion.

MOTION carried.

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MOTION by GALLAGHER seconded by SLOSSON to deny the variance request of Section 10.0319(C)(3)-Request to erect an off-site sign; Located on the south side of 22 Mile Road, west of Romeo Plank Road; Section 29; Sound Building Company, Petitioner. Permanent Parcel No. 08-29-226-021. The variance was denied since there is no need for an off-site sign. There is nothing unusual about this site's particular situation that shows a need for an off-site sign. There are numerous subdivisions being developed internally in various sections of the Township. Lastly, there was to be a construction road when this site was developed.

MOTION carried.

7. VARIANCE FROM THE PROVISION OF THE ZONING ORDINANCE;
Permission to vary section: 10.0314C. to increase the height of the first floor elevation above the curb from 60 inches to 66 inches
Located on the east side of Stonefield Drive, west of Romeo Plank Road, south of 22 Mile Road; Section 29; Sound Building Company, Petitioner. Permanent Parcel No. 08-29-233-008.

Chairman FLORENCE read the findings and recommendations of November 23, 2005. They are as follows:

The petitioner is requesting permission to increase the height of the first floor from 60 inches to 66 inches. The petitioner also indicates that to meet the requirement of the zoning ordinance would be difficult and costly.

The property is zoned R-1.

The petitioner further indicates that the current basement has specific requirements that do not allow the basement to be below the flood plain.

RECOMMENDATION:

It is recommended that the variance request be denied for the following reasons:

1. Compliance with the strict letter of the height requirement would not unreasonably prevent the ownership from using the property as zoned. Other residential structures planned in Macomb Township will be required to comply with the same height requirement which is evidence that the proper height would not be unnecessarily burdensome.

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2. The granting of a variance as requested would give to the applicant an advantage or benefit not received by any other property owners in residential developments in Macomb Township. The other owners are or will be required to comply with the 60 inch height requirement. As a result the other property owners do not have the opportunity to make use of the 6 inches of height.

There is nothing unusual about the parcel in question that sets it apart from other parcels in area or in Macomb Township. There is nothing to prevent any part of the height from being maintained at 60 inches from the curb. For example, there are no significant grade differences or natural feature such as a stream or wetland to prevent full use of the parcel according to the ordinance as written.

3. The variance would amount to increasing the height from the curb by approximately 9%.

The following letter of explanation was submitted by the petitioner dated November 17, 2005 as follows:

“This request is being made due to a hardship caused by the drastic variation in street elevation between the Turnberry and Turnberry Pointe Subdivision. The road has a variation of 7 inches causing us to be unable to meet the 60 inch maximum first floor requirement, required by Ordinance 10-21, across the total front of Lot 1 (48746 Stonefield).

The revised floor system would enable us to meet the 60 inch rule at the north end of the house. However, there would be a 2 inch discrepancy at the center of the home and a 6 inch difference at the south side of the home.”

The following letter from Spalding DeDecker and Associates was also read into the record as follows:

“The comments and concerns set forth in this letter represent the opinions of both the Township Engineer and the Macomb Township Water and Sewer Department. We have reviewed the above referenced Variance Request and offer the following comments.

The petitioner is again requesting a variance from the Zoning Ordinance (Article VII, Section 10.0704B3) in order to obtain a building permit. The petitioner previously requested a variance for this lot to allow the first floor to be constructed 75 inches above the lowest adjacent curb. This was reviewed by the Zoning Board of Appeals and denied on November 8, 2005. In an effort to save the existing building foundation, the petitioner is now proposing to use a lower profile floor tress system, which would allow the first floor to be lowered by 7 ½ inches. If the request is approved by the Board of Appeals, the new first floor elevation would be 67 ½ inches above the lowest adjacent curb.

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A representative of the petitioner has contacted our office after the previous Board of Appeals action and stated that their new proposal would lower the first floor to within 2 inches of the 60 inch maximum allowed by Township Ordinance. However, the proposal, as currently submitted, requests a variance of 7 ½ inches above the Ordinance requirement. Although this request reduces the height to the first floor, it is still well above the Ordinance requirement. Additionally, as we stated in our recommendation for the previous variance request, the house could have been constructed in accordance with Ordinance had the sewer lead and footing been installed at maximum depth. Therefore, we recommend the variance request (Zoning Ordinance – Article VII, Section 10.0704B3) be denied.

If you have any questions regarding this matter, please contact our office at your convenience.”

Franco Mancini, petitioner, was in attendance and stated the original request that was made was based on using the standardized floor system which is 2 x 10 floor joist. The request is now based a lower profile floor truss which does meet the request at 60 inches (at the left side of the home) but the right side still exceeds at 65 inches due to the slope change in the concrete of the street. The Building Department could not act upon the issuance of a permit since the entire house had not been corrected and would have to proceed back to the Zoning Board of Appeals.

Public Portion:

Jacki Orsini, 48958 Stonefeild Drive, stated making a second request to a prior variance request that had been denied was a waste of the taxpayer’s money. She further asked how many times a petitioner could keep asking for the same variance by changing the original request by one inch. Lastly, the variance request should be denied based on the prior rationale of November 8, 2005 and there is no practical difficulty.

Mike Jacob, 18340 Cheryl, agreed with the statement made by Jacki Orsini about how many times a petitioner can ask for a variance on the same item.

Franco Mancini stated the variance request being made does not affect the drainage plan. The brick ledges are still in conformance to the engineer’s design. The grading issue would be less drastic than what is out there. He also stated that if lumber is being delivered prior to 7:00 a.m. he would like to made aware of that and he will contact the lumber supplier since it is a concern with the bus stop being at the entrance to the subdivision.

MOTION by GALLAGHER seconded by SELVA to close the public portion.

MOTION carried.

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MOTION by GALLAGHER seconded by SELVA to deny the variance request of Section 10.0314C-Request to increase the height of the first floor elevation above the curb from 60 inches to 66 inches; Located on the east side of Stonefield Drive, west of Romeo Plank Road, south of 22 Mile Road; Section 29; Sound Building Company, Petitioner. Permanent Parcel No. 08-29-233-008. The variance was denied based upon the Planning Consultants recommendation as follows:

- 1. Compliance with the strict letter of the height requirement would not unreasonably prevent the ownership from using the property as zoned. Other residential structures planned in Macomb Township will be required to comply with the same height requirement which is evidence that the proper height would not be unnecessarily burdensome.**
- 2. The granting of a variance as requested would give to the applicant an advantage or benefit not received by any other property owners in residential developments in Macomb Township. The other owners are or will be required to comply with the 60 inch height requirement. As a result the other property owners do not have the opportunity to make use of the 6 inches of height.**

There is nothing unusual about the parcel in question that sets it apart from other parcels in area or in Macomb Township. There is nothing to prevent any part of the height from being maintained at 60 inches from the curb. For example, there are no significant grade differences or natural feature such as a stream or wetland to prevent full use of the parcel according to the ordinance as written.

- 3. The variance would amount to increasing the height from the curb by approximately 9%.**

MOTION carried.

Member POPOVSKI wanted to recognize the petitioner's efforts to admit their error and also to commend them at looking at all of the other means of trying to resolve the variance.

- 8. OLD BUSINESS**

None.

- 9. NEW BUSINESS**

None.

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10. PLANNING CONSULTANT COMMENTS

Jerome R. Schmeiser, Planning Consultant, stated the next regular scheduled meeting was January 10, 2006.

11. MOTION TO RECEIVE AND FILE ALL CORRESPONDENCE IN
CONNECTION WITH THIS AGENDA

**MOTION by GALLAGHER seconded by SELVA to receive and file all
correspondence.**

MOTION carried.

ADJOURNMENT

**MOTION by SELVA seconded by GALLAGHER to adjourn the meeting at 8:00
P.M.**

MOTION carried.

Respectfully submitted,

Brian Florence, Chairman

Dawn Slosson, Secretary

Beckie Kavanagh, Recording Secretary

BK